

15. **ISSUE: Re: MACE: UNDER AUTHORITY OF HENDERSHOTT, COUNTY ATTORNEY LISA AUBUCHON ISSUED INAPPROPRIATE INSTRUCTIONS TO MCSO PERSONNEL RELATING TO PREPARATION OF WARRANTS TO BOARD OF SUPERVISORS – SUBJECT: HENDERSHOTT**

**Chief Deputy David Hendershott**

H10A. Allegedly, on or about March 23, 2009, Maricopa County Deputy Attorney Lisa Aubuchon called a meeting involving Lt. Rich Burden, Sgt. Jeff Gentry, Sgt. Rich Johnson, Sgt. Brandon Luth and financial analyst Beverly Owens, and ordered that MCSO Investigators employ “creative writing” to author the Board of Supervisors warrants. Aubuchon also reportedly stated, “If we can’t try him [Stapley] in the courts, we’ll try him in the media.” Lt. Burden forbid his staff to do so and welcomed any of them to come forward with anything they had done up to that point on MACE investigations that may have been improper or unethical.

**MUNNELL’S WRITTEN ACCOUNT**

**Meeting with Deputy County Attorney Lisa Aubuchon**

The following Monday, March 23, 2009, a meeting was arranged with Maricopa Deputy County Attorney Lisa Aubuchon at the Wells Fargo Building on the 18<sup>th</sup> Floor to discuss the BOS search warrant that Hendershott wanted. Present in this meeting: Lieutenant Rich Burden, Sergeant Jeff Gentry, Sergeant Rich Johnson, Sergeant Brandon Luth, and a Sheriff’s financial analyst named Beverly Owens. This was a very contentious meeting in which Aubuchon told MCSO investigators to use “creative writing” to author the warrant. Burden was incredulous. He pointed to each of his subordinates one at a time, and told them if he found out that any one of them used creative writing or wrote a warrant without the facts, he would fire them. Burden then asked his subordinates if they understood him.

Burden reiterated that facts must be used to establish probable cause for all warrants. He also told each of them that if any of them wanted to come forward after the meeting he would meet individually to straighten the matter out and that he would protect them if they did something wrong or was told to do something wrong. If there were anything immoral or unethical, he would take care of them and fix it right now.

During the meeting Aubuchon showed the previously written search warrant used for the Stapley case as an example for them to follow. Burden countered that the warrant looked like a “Press Release” and not a valid search warrant. When she insisted that MCSO had authored the warrant, Burden countered that we (MCSO) had written about six pages of that warrant, but the County Attorney’s Office added the additional information and it was now about seventeen pages in length. Burden added that told her that he had the original warrant to prove it.

Burden said that he was glad that he did not have to go to suppression or quash hearing reference that first warrant. Aubuchon said it wasn’t her job to author search warrants and said “why don’t you just do good police work.” Burden replied that good police work would begin that day.

The most shocking moment of the meeting took place when Aubuchon, who is supposed to be an impartial and ethical prosecutor, stated during the meeting, to the effect that if they couldn’t get

1 charges on Stapley, that he would be tried in the media. The result of this contentious meeting was  
2 that Burden and the Sheriff's personnel present in the meeting refused to author a warrant to  
3 search the offices of all the members of the Maricopa County Board of Supervisors and the  
4 meeting was concluded.  
5

6 **NARRATIVE SUMMARY**  
7

8 On or about March 23, 2009, Maricopa County Attorney Prosecutor Lisa Aubuchon  
9 called a meeting involving Lt. Burden, Sgt. Gentry, Sgt. Johnson, Sgt. Luth and financial  
10 analyst Beverly Owens, and ordered that MCSO Investigators to use "creative writing"  
11 to author the Board of Supervisors warrants. Aubuchon also reportedly stated, "If we  
12 can't try him [Stapley] in the courts, we'll try him in the media." Lt. Burden forbid his  
13 staff to do so and welcomed any of them to come forward with anything they had done  
14 up to that point which may have been immoral or unethical.  
15

16 **WITNESS ACCOUNTS**  
17

18 **Frank Munnell**  
19

20 This issue came to Munnell's attention from Richie Burden and others. He has no  
21 firsthand knowledge. His information about these events is set forth on pp. 59-60 of  
22 Exhibit II 28b.  
23

24 **Rich Burden**  
25

26 Burden's account of what took place in the meeting with Aubuchon is as follows.  
27

28 A: Right. So, so, as we're sitting there talking, I said, you know, I got off the  
29 phone with David Hendershott, DH, and he said that you're going to write the  
30 search warrant. And she goes, it's not my job to write search warrants. I said,  
31 well, I understand that. But I said, you're writing this one. And I said, I just  
32 don't understand how we can write a search warrant off the information we've  
33 got. We've got a new article. And we have no suspect. Number one, we don't  
34 even have a crime, so I can meet the elements to raise my probable cause, and I'm  
35 not going to sit here and tell you all about a search warrant. I told her, 'cause she  
36 should know.  
37

38 Q: Is that what you said to her?  
39

40 A: Yeah, something about like that. And I even went further into it here in a  
41 moment. And then she says, all it takes is good police work. I said, Ma'am, and  
42 she said it, about the second time she said good police work, I said, you know  
43 what, you've got some of the best investigators on this floor. And they're going  
44 to get directives from me. And we need a scope of this investigation and I don't  
45 see it. But Dave Hendershott said that you know everything about this case and

1           that you're going to enlighten me. That's what we're here for. This is for you to  
2           enlighten me. And,

3  
4           Q:     Are you delivering it in the fashion that you're conveying it to Wayne and  
5           I?

6  
7           A:     I don't know if it's that aggressive. But I said, we've got a new article and  
8           no suspect. We have no suspect. We have nothing to go on. I don't even know  
9           how to start getting probable cause. And he wants a search warrant on his desk  
10          by tomorrow morning, 7 a.m., and DH is Hendershott. Hendershott's phone calls  
11          started after this meeting. That just reminded me of that. I believe. I believe.  
12          And he wants a search warrant on his desk by tomorrow morning or something  
13          like that. And there's just no way I can possibly see about writing one. There's a  
14          lot of information, there's a lot of investigation that needs to go on see is you have  
15          any wrong-doing. And that's when I think she said, well, it just takes some good  
16          police work, like the second or third time, and I finally told her, don't disrespect  
17          our people like, you know, the people in this room like that. And then I think I  
18          threw it back at her that she's supposed to write this thing, or help us write it.  
19          And she goes, I'm not writing it. And I says, and I had picked up a 21-page  
20          affidavit, off my desk, had it right in front of me, and I said, Ma'am, I've got to  
21          the 7<sup>th</sup> page of this one, this search warrant, that you authored. I didn't author  
22          that. I said, yes, you did.

23  
24          Q:     This was a search warrant concerning what? Something else?

25  
26          A:     Yeah, I was trying to figure out what's going on. The best way I could  
27          figure out what's going on is to start reading some affidavits and find out where  
28          my investigations lie in those investigations. So, I said one of these, here's a  
29          search warrant that you wrote, it's 21 pages, or 19 or 18 pages. I said, I've never  
30          read, I've got to the 7<sup>th</sup> page of this affidavit you wrote, I didn't write that. I said,  
31          yes, you did. She says, no, I did not write that. I said, well, I was told we handed  
32          you 7 to 8 pages of affidavit and it came back 19 to 21 pages of affidavit. So  
33          you're the last one to author this search warrant. You wrote it. And she tried to  
34          snatch it and I said, oh, no, this one's mine. This one's mine. And she said, just,  
35          and then I said, now since you did that one, DH said you'd help us write this one  
36          or write this one. She goes, well, if you would just do good police work, all you  
37          got to do is take that news article, put a little fluff above it, a little fluff below it,  
38          you can get any judge to sign it.

39  
40          Q:     That's what she told you?

41  
42          A:     Oh, and more. And she said, I said fluff above, fluff below, get any judge.  
43          I said when we write a search warrant we're taking it to a Superior Court Judge  
44          and he ain't going to take no fluff. He wants to see the facts (inaudible). And she  
45          said, we don't take out search warrants to Superior Court Judge, we take it to a JP.

1 I said, Organized Crime warrants, you're not going to take to a Superior Court  
2 Judge? I mean are you begging for a Suppression Hearing? Begging? I've  
3 never heard of anything like that. I said, so what judge is it? Oh, we take it to  
4 Judge, and the only thing I can picture, guys, I don't know the name. It was a  
5 small short name. Short name. Said, and all I did I was pictured the mountains  
6 out at ASU & Stadium, so I'm thinking it's Tempe JP or Mesa JP. Right when  
7 she said it, I said, AS, I mean Tempe JP, what are you talking about? I pictured  
8 the mountains, so it's somewhere, a small JP judge who signs all of the MACE  
9 Unit search warrants, and I went, oh, you're so done.

10  
11 Q: That's what you said to her?

12  
13 A: I said, that is so wrong. You're judge shopping and that's just not how  
14 you do things. You do not do that. Okay, then it said, oh, God, she said  
15 something, it just rocked me, and I yelled, Oh, My God! I didn't yell, I just  
16 threatened them. Can I review that dang memo? No, it's not in there, this is one  
17 of those things where it's wrong. Fluff above, fluff below, da, da da. If you just  
18 use some creative writing and put some fluff above it and fluff below it, you can  
19 get any judge to sign it. I said, at that point I looked at her and said, Counselor,  
20 hold that thought. I'll be right back with you. I said, Sergeant, and I pointed right  
21 at Sgt. Rich Johnson, and I said if I ever find out that you creative wrote in any  
22 search warrant, affidavit, report, or anything official to do with this office,  
23 anything, I will have you personally fired, do you understand that? And he goes,  
24 yeah. I said, yeah, what? Yes, Sir. I said you, Luth, yes, Sir, and you, and then  
25 Gentry said, without a doubt boss, got your back.

26  
27 Q: This is all in front of Lisa?

28  
29 A: Yes. Ohh, she didn't like that. And I came back, I said, Counselor, we  
30 don't creative write, we don't put fluff above or fluff below, we will not judge  
31 shop. When we do a search warrant here from now on, under my command, we  
32 will write an affidavit and give it to a Superior Court Judge or Commish and have  
33 them review the warrant.

34  
35 Q: What was her response to that?

36  
37 A: I guess this meeting is over. And I said, I guess it is. (pp. 30-32, Exhibit  
38 II 46)

39  
40 Burden indicated that he took particular offense at Aubuchon's suggestion that the  
41 Detectives engage in "creative writing." He put it as follows.

42  
43 And right at creative writing, that was at the very end, because she got up and left,  
44 was, and it was sort of comical guys, because that was wrong. And that was  
45 unethical, it's not practical, it's against every principal I stand for. Bad guys have

1 the right to, you know, have the right to get defense, too, and I got to prove it.  
2 You can't break people's rights, man. When I said that, and I threatened all my  
3 guys, you guys got it. And I even told my guys in front of her, if you've done  
4 something, come to me. Door's open, come to me. Tell me what you've done.  
5 Tell me where you have a problem. (p. 32, Exhibit II46)  
6

7 After Aubuchon left his office, he never spoke with her again.  
8

9 After Aubuchon had left the office, Burden conferred with the personnel who were  
10 present, and he asked Richie Johnson how long Johnson thought Burden had in his  
11 present job, and Johnson was reportedly, "Boss, not long." Beverly Owens was  
12 thankful, because as Burden recounts her comments, she said "Nobody has ever stuck  
13 up for us like that."  
14

15 **Rich Johnson**  
16

17 Sgt. Johnson indicated that he was present for this meeting with Lisa Aubuchon and  
18 recalled that there were others present, including Richie Burden, Jeff Gentry and  
19 possibly some Graham, Raschinko and/or Abrahamson. He described what happened  
20 as follows.  
21

22 A: Lisa brought in additional information and I, you know, I read the memo  
23 part and that's what makes it a little fuzzy for me. Is I don't remember if she  
24 brought it in an affidavit or if we printed, or if she had it typed up, because she  
25 brought in a bunch more information to go in the affidavit. And I remember Lisa  
26 getting very frustrated that our guys, we didn't understand what she was getting at  
27 and that we still believed there wasn't enough to do the warrant yet.  
28

29 Q: Who was expressing that in that meeting?  
30

31 A: Most certainly Jeff Gentry, Lt. Burden. No, I was fresh back from  
32 vacation, same as Brandon. He wasn't real involved. We were there, but I, I  
33 don't remember who would have expressed it the loudest other than Burden or  
34 Jeff Gentry.  
35

36 Q: And what was her response to that?  
37

38 A: You guys just don't understand, that you don't see the big picture, you  
39 need to try harder at writing it. I do remember her saying, you know, "creative  
40 writing." "You need to get creative with your writing."  
41

42 Q: Well, what I'd like for you to do is to try and capture to the extent that you  
43 can, to the extent that your recollection allows, what words she used to convey  
44 that phrase involving the word "creative."  
45

1 A: It was, I remember it being in regards to drafting the affidavit. And I  
2 remember her saying, "You guys just aren't seeing the big picture. Maybe you  
3 need to get creative in writing in order to articulate the probable cause." And I  
4 don't remember verbatim. I'm sorry. I can't remember verbatim. But I  
5 remember all of us saying we're not going to be creative in writing, at least  
6 thinking that.

7  
8 Q: So, what did you take that she was asking you to do? What did creative  
9 writing mean to you in that meaning?

10  
11 A: What I took it to mean was you need to be able to articulate the probable  
12 cause better. I didn't take what's been alluded to that she was saying I want you  
13 to lie in this document. I never once took that from her. What I took from her is  
14 her saying you guys aren't getting the picture. I want you to get more creative in  
15 your writing. But then again, I was not writing that affidavit.

16  
17 Q: Alright.

18  
19 A: She is very aggressive.

20  
21 Q: You didn't take it that she was giving you instructions to fudge on the  
22 facts in any way? Or, to twist the information in such a way to, in an attempt to  
23 justify or articulate probable cause?

24  
25 A: I didn't take it as such that she was trying to get us to lie, no. Maybe write  
26 things a different way that would articulate it, maybe.

27  
28 Q: Did Rich Burden give you any specific instructions, or the persons who  
29 were in that meeting, any specific instructions?

30  
31 A: He did.

32  
33 Q: What did he say?

34  
35 A: No one here is to use creative writing.

36  
37 Q: Did he say that in front of Lisa?

38  
39 A: I believe so. It was in the room. I can remember sitting in the room and  
40 him saying, listen, nobody here is going to use creative writing, you understand?  
41 I have no, she had to have been in there because I remember him saying, or  
42 Gentry, the two of, I remember him saying my guys aren't going to use creative  
43 writing to do this. I'm pretty sure she was.

44  
45 Q: What was her response to that?

1  
2 A: She got upset.

3  
4 Q: And what did she say?

5  
6 A: I don't remember exactly other than you guys just don't get this. You  
7 don't see how it is. I don't remember her storming out, but I remember her  
8 leaving quite abruptly. (pp. 40-41, Exhibit II20)

9  
10 Sgt. Johnson could not recall Aubuchon making comments about trying to make it to the  
11 press, but said that it was not out of the norm for Aubuchon to make these types of  
12 comments. Johnson could not remember exactly what Aubuchon was said, but the  
13 comment attributed to Aubuchon in Frank Munnell's memo, "if they couldn't get charges  
14 on Stapley that he would be tried in the media," sounded correct to Johnson.

15  
16 **Bill Knight**

17  
18 Knight was not at the "creative writing" meeting, but he received information from Richie  
19 Burden about what had transpired. Knight's interpretation was that Burden was  
20 disagreeing with Aubuchon's instruction to MACE to add non-factual information to the  
21 BOS warrants.

22  
23 Q: Did Richie tell you about it?

24  
25 A: Ah, yeah, no, he told me about it, and I think we probably discussed it at  
26 lunch. Now I can't remember specific details about it, but I think it was along the  
27 lines of, again, I believe Lisa was in some different dimension than we were in, in  
28 terms of what she perceived fraud schemes to be, and how to write search  
29 warrants and those kinds of things. And my interpretation was, is that Richie was  
30 obviously disagreeing with her and telling his guys, you're not writing anything in  
31 a damn affidavit that's not legitimate, that's factual, that we can document, and  
32 we are not going to be putting bullshit in these affidavits. So, and I know the term  
33 creative writing came up and I believe it was, according to what, I think, Richie  
34 told me, it was said out of Lisa's mouth about, well, you've just got to get creative  
35 in how we're writing these things. I think that's when Richie turned to his guys  
36 and said, if you motherfuckers get creative in your search warrant writing, you're  
37 going to answer to me. We don't pull that kind of crap, we put factual  
38 information in a search warrant. (pp. 29-30, Exhibit II21)

39  
40 Knight was not aware that Hendershott had allegedly told the Sheriff that he had  
41 removed "some lazy Deputies" from MACE.

42  
43 **Brandon Luth**

44  
45 According to Sgt. Luth, he was present at the meeting where Lisa Aubuchon gave

1 instructions to members of MACE about how to prepare Search Warrant Affidavits on  
2 the Board of Supervisor case. As Sgt. Luth recalled, Rich Burden had just returned  
3 from vacation and there was a meeting with Lisa Aubuchon. Luth recalled Lisa  
4 Aubuchon and Rich Burden discussing the preparation of the Search Warrant Affidavit  
5 on the Stapley case and saying, "Sometimes you got to be a little bit creative," to which  
6 Burden responded, "My guys aren't going to be involved in creative writing." Aubuchon  
7 retorted with, "If we have to we'll try it in the media," or words to that effect, and then  
8 she stormed out of the meeting. (p. 33, Exhibit II25)

9  
10 Once Sgt. Luth was assigned his own squad in MACE, he saw this same type of  
11 behavior to continue from Lisa Aubuchon. According to Sgt. Luth, Aubuchon was  
12 always pressuring MACE to prepare Search Warrants and when they refused, based on  
13 insufficient information, Aubuchon would tell Hendershott, who would then order MACE  
14 to do what Aubuchon had directed. Sgt. Luth indicated that Aubuchon and Hendershott  
15 were inseparable during this timeframe and said that it almost seemed like Aubuchon  
16 was their boss, as she was calling the shots through Hendershott.

17  
18 Sgt. Luth recalled that there was another occasion, when Aubuchon held a meeting with  
19 MACE staff where she presented a draft indictment on which Hendershott wanted to  
20 move forward. The indictment was very broad and included the names of Board of  
21 Supervisors, judges, two private attorneys, County employees. There were also  
22 different charges listed with date ranges, which were marked with question marks. Sgt.  
23 Luth said that the MACE staff questioned the contents of the draft, asking Aubuchon  
24 what their evidence was and Aubuchon's answer was, "We got a good case," and said  
25 that they just needed to figure out who they were charging, and what they were  
26 charging them with. Sgt. Luth's opinion was that they had not had the opportunity to  
27 fully investigate the matter at that point, therefore they did not have sufficient evidence  
28 to move forward.

29  
30 According to Sgt. Luth, this type of behavior continued by Aubuchon and he  
31 summarized a few more examples, including the Court Tower and Donahoe  
32 investigations. Sgt. Luth said that through time he also learned that Aubuchon and  
33 Hendershott were hiding vital information from MACE personnel, which MACE was  
34 responsible for investigating.

35  
36 A: ....They [Hendershott and Aubuchon] kept information from us, you  
37 know, one, one particular incident is who the original complainant of the original  
38 court to our investigation was, you know. All I know from when I took it over, is  
39 that we got a subpoena that was issued in December of '08. Prior to that point I  
40 remember at meetings and different things or in conversations with Lisa, I  
41 remember, can I cuss? I remember hearing her, hearing her bitching about, you  
42 know, this Tom Irvine guy, and that he's a space planner on the board and he ain't  
43 doing any work and what's he doing at working there. I remember her  
44 complaining about it because she was on that space planner meeting and all of  
45 that. And then all of a sudden, there's a case there, and like I said, I wasn't



1 involved at that point, I just inherited it later, so I didn't know why it started, but  
2 it did. And then, fast forward several months and we're going now to meet with  
3 the Yavapai County Attorney because they had been conflicted out, we're trying  
4 to figure out timeline wise why this happened or occurred, how it started.

5  
6 Q: How?

7  
8 A: The Court Tower investigation.

9  
10 Q: Very good.

11  
12 A: And so, we had just got, Miller, Rich, and I had just got done trying to put  
13 together a timeline with all that, and as we're walking out down through Wells  
14 Fargo, we happen to run into her out in the breezeway, and so I pull her aside and  
15 I'm like, hey Lisa what's, what's the deal with the Court Tower, you know,  
16 where'd that complaint come from? I go, I remember you complaining about it  
17 and this and that and you talking about Irvine, and then all of a sudden the case is  
18 here, the subpoena was issued in December, I wasn't involved in, how did all this  
19 start? Cause Rich didn't have anything or recollection or he couldn't tell me how  
20 it all started. And she put it back on us, she goes, well, you guys started that, you  
21 guys are the ones that come up, that complained about that and I'm like, what the  
22 hell are you talking about. And then fast forward more, then we find, I find out  
23 several months later from Hendershott, after Donahoe's been served with a direct  
24 complaint, he tells us, you know, I, you guys don't know this, but way back I had  
25 a meeting with Judge Mundell and we had coffee, whatever, coffee break and she  
26 told me that she was forced to hire Irvine, by Stapley, by Don Stapley. So, then  
27 I'm thinking, okay, well, maybe it came from Hendershott and she was  
28 complaining about it and they came up with it together, but then even six months  
29 later, then I find out that it actually came from Phil MacDonald at the County  
30 Attorney's Office through a press release that the Sheriff's Office put out, that he  
31 was the one that got the original information that there was some improprieties  
32 with how Irvine was hired, with the Court Tower project. So, I was like, we got  
33 this case given to us, but we never knew who the complainant was. So, that's, I  
34 guess that's one example of...

35  
36 Q: Mmm-hmm.

37  
38 A: ...you know, how they would withhold information from us and they  
39 would only tell us when we needed to know, but yet, we were the ones that were  
40 being tasked with putting these cases together and, but, and I mean, I guess in  
41 reality they're their cases, we're just the pawns or the currents or the soldiers  
42 doing it for them. (pp. 35-36, Exhibit II25)

43  
44 While Sgt. Luth did not personally discuss with Chief Hendershott the reason for the  
45 removal of Gentry's group from MACE, he learned Hendershott's excuse from a

1 meeting with the media. Hendershott told the media that he had to transfer the entire  
2 Command and the Unit (Gentry's group) because Sheila Polk had not issued  
3 subpoenas in a timely manner. Sgt. Luth pointed out that the transfers occurred months  
4 before Polk refused to issue the subpoenas and said that Hendershott was only using  
5 that as an excuse to the media.

6  
7 **Jim Miller**

8  
9 Miller was not present when this meeting took place, and has no firsthand knowledge.  
10 He has received a hearsay account from Rich Burden.

11  
12 **Bruce Tucker**

13  
14 By the time that Bruce Tucker returned to MACE/OCD in January 2009, Lisa Aubuchon  
15 was already working very closely with Hendershott. He was not working in the MACE  
16 unit at the time of the meeting when Aubuchon and Burden were in attendance. When  
17 asked about the case direction that was received from Hendershott or Aubuchon,  
18 Tucker responded as follows.

19  
20 A: I think in short, I can answer your question by saying that the direction I  
21 got from Lisa Aubuchon and Hendershott was extremely intimate, down to the  
22 finest details of each case, regardless of the cases. Any of the MACE cases  
23 themselves, or, with exception of a very short list, very, very clear direction from  
24 Hendershott on each and every one of those cases. When I say there were some  
25 that did not get that sort of attention, there was a case that stands out, and I don't  
26 even remember what the issue was, but it was, I think her name was Michelle  
27 Fleck, and it was like a vulnerable adult, or something like that, where her  
28 boyfriend had a parent who may have been getting, taking advantage of by  
29 another sibling. You know, basically what it seemed to me was, either this was a  
30 friend of Sheriff Joe Arpaio's or something, and he needed a method to appease  
31 this individual and had very little concern about the outcome of the case, other  
32 than did you guys get it, are you taking care of it, did you talk to her, did you  
33 interview her?

34  
35 Q: Who was saying that?

36  
37 A: Hendershott.

38  
39 Q: Okay.

40  
41 A: But when it came to the other cases, like the Community College case, the,  
42 certainly Don Stapley case, every one of those decisions of who we would  
43 interview, when we would interview them and how we would interview them, or  
44 a search warrant being written, a search warrant being conducted, those

1 directions, directives were given verbally from either Hendershott to Miller, to  
2 me, or Hendershott to me personally. (P.20, II42b)  
3

4 While Aubuchon did not author any search warrants, she certainly did amend the  
5 search warrants and was the first person to receive the search warrant affidavits, review  
6 and edit them, and make recommendations. She would make specific instructions to  
7 the Detectives about what to include or what to change. When asked whether  
8 Aubuchon had ever made any recommendations in terms of content of any search  
9 warrant affidavit, with which he felt uncomfortable, Tucker's response was as follows.

10  
11 A: No. I can't say that there is a phrase that she wanted included or  
12 something, I would think that she, if anything I would have the same sort of  
13 thought process of, why are we putting this in here, but whatever, if you want that  
14 in there we'll put it in there. Again, for me to dispute her direction, I felt would  
15 be just like disputing Chief Hendershott's direction. From my past experience,  
16 when I mentioned to you previously that I had expressed some personal  
17 viewpoints on taking vacation time to some of the members of the County  
18 Attorney's Office and how that was received, and that was purely innocent. I  
19 wanted to express to them, because I was new to that situation, the importance of  
20 what we were trying to do and how that was received, I was not going to question  
21 any directives or guidance that I received from any County Attorney. (P.21,  
22 Exhibit II42b)  
23

24 Tucker indicated that instructions from Lisa Aubuchon, in the 45 days he worked in  
25 MACE/OCD in his second stint, had the same effect as instructions from Dave  
26 Hendershott.  
27